

A BILL FOR AN ORDINANCE

REGULATING FOR AN INTERIM PERIOD THE ISSUANCE OF BUILDING PERMITS
FOR THE DEVELOPMENT OF LARGE RESIDENTIAL STRUCTURES IN
RESIDENTIAL ZONING DISTRICTS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and Purpose.

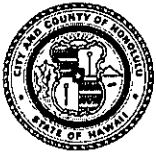
The City's zoning maps and the Land Use Ordinance ("LUO") establish zoning districts and zoning district regulations for the utilization of land in the City pursuant to Section 6-1514 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition). Each zoning district is designated for certain uses and restricted for other uses in order to encourage orderly development in accordance with adopted land use policies, including the Oahu general plan and the applicable development plans or sustainable community plans, and to promote and protect the public health, safety, and welfare.

The residential zoning districts (R-3.5, R-5, R-7.5, R-10, and R-20) are generally intended for development of one- and two-family detached dwelling units. The LUO defines "detached dwelling" as a building containing one or two dwelling units, entirely surrounded by yards or other separation from buildings on adjacent lots. The LUO defines "family" as one or more persons, all related by blood, adoption, or marriage, occupying a dwelling unit or lodging unit; or no more than five unrelated persons. In addition, the LUO provides that eight or fewer persons who reside in an adult residential care home, special treatment facility or other similar facility monitored or licensed by the State of Hawaii are considered a family.

Multifamily dwellings (consisting of three or more dwelling or lodging units) are not permitted in the residential districts. The apartment districts are generally intended for the development of multifamily dwelling units, including walk-up and high-rise apartments.

Communities in residential districts throughout the City have reported development of large residential structures, some with upwards of 20 bedrooms, and multiple kitchens and wet bars, which appear to be intended for use as multifamily dwellings in violation of the LUO.

In most cases where large residential structures have been built, the Department of Planning and Permitting ("DPP") has approved building permits and certificates of occupancy for such structures based on compliance with zoning regulations, which do not restrict the number of bedrooms or wet bars allowed in residential districts. In cases



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reported by the community and the media, many of these large residential structures are later illegally converted to use as long-term rental apartment buildings, housing multiple families in violation of law, or are used illegally as short-term transient vacation rentals.

The Council understands that the DPP, when reviewing building plans, will "flag" projects containing layouts deemed suspicious for conversion into illegal rental units, and require the property owner to file an affidavit or restrictive covenant stating that the permitted use will not be altered. Furthermore, the DPP, upon receiving complaints from the community, has cited landowners for violations in cases where the DPP was able to determine that a violation occurred. In spite of such efforts, the rate of construction of large residential structures in residential districts appears to be increasing, resulting in potentially adverse effects on neighborhood character, energy consumption, and area infrastructure capacity, and, when these structures are used for short-term rentals, adversely affecting the supply of affordable long-term rental housing.

The Council, by Resolution 17-198, adopted on September 6, 2017, urged the DPP to increase enforcement, consider modifying the DPP's administrative rules, and propose to the Council any legislation the DPP Director deems necessary to address the problem of the illegal use of large residential structures in residential zoning districts. At the meeting of the Committee on Zoning and Housing on August 24, 2017, the Acting DPP Director testified in support of Resolution 17-198 and noted that the DPP has been working on the subject issue and is in the process of compiling pertinent statistical information.

Resolution 17-276, introduced on October 4, 2017, would direct the DPP Director to process a proposed LUO amendment intended to address the rapidly increasing development of large detached dwellings in residential districts and the impacts thereof on the surrounding communities, by limiting the number of bedrooms and wet bars allowed in detached dwellings and increasing the off-street parking requirements for large detached dwellings.

Upon Council adoption of Resolution 17-276, the resolution and attached proposal will be transmitted to the DPP Director and the Planning Commission for review. The DPP Director must submit the DPP's findings and recommendations, together with the Council's proposal and any alternate DPP proposal, to the Planning Commission. The Planning Commission must hold a public hearing, then submit its recommendations, together with the Council's proposal, DPP Director's report, and any alternate DPP proposal, to the Council through the Mayor.

The purpose of this ordinance is to provide the City Administration, the Planning Commission, and the Council sufficient time to fully explore and evaluate the rapidly



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increasing rate of development of large detached dwellings in residential districts and determine what permanent regulatory controls are necessary and reasonable to address this issue. This ordinance will prevent a race of diligence during the interim period while alternative solutions are being explored and evaluated and while additional land use controls are being considered.

The Council deems the adoption of this ordinance under its general police and home rule powers to be in the best interest of the community and its health, safety, and general welfare.

SECTION 2. Definitions.

For the purposes of this ordinance the definitions in Section 21-10.1, Revised Ordinances of Honolulu 1990 will apply and, additionally:

"Large detached dwelling" means a dwelling unit with more than ___ bedrooms in each dwelling unit or more than ___ wet bars in each dwelling unit.

"Wet bar" means a bar or serving counter in a dwelling or lodging unit that is equipped with a sink and running water.

SECTION 3. Applicability.

A. From the effective date of this ordinance until the enactment of an ordinance explicitly repealing or superseding this ordinance, or two years after the effective date of this ordinance, whichever occurs first, no building permit applications may be accepted, and no building permits may be issued by the Department of Planning and Permitting for:

1. A new large detached dwelling; or
2. The conversion of an existing structure into a large detached dwelling;

in any residential zoning district in the City and County of Honolulu, except as specifically stated herein.

B. Section 3.A. does not apply to the application for or issuance of a building permit in the following instances, provided that the application otherwise qualifies under all other applicable laws, rules, and regulations:



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1. To perform work to make an existing building or structure conform to or comply with applicable laws or rules;
 2. To perform maintenance and repair to an existing structure or building; or
 3. Any development that is not a large detached dwelling, and will not become a large detached dwelling, when constructed in accordance with the submitted and approved plans.
- C. This ordinance does not affect the application for or issuance of a building permit for:
1. Any development for which a building permit has been lawfully issued by any government agency, and is in effect on the effective date of this ordinance.
 2. Any development for which a building permit application has been submitted to and accepted as complete by any government agency for processing as of the date of the introduction of the bill enacted as this ordinance; and
 3. Any development that is not located within a residential zoning district.

SECTION 4. Penalties.

Any person, firm, entity, or corporation using, constructing, erecting, enlarging, or structurally altering, any building or structure in violation of the provisions of this ordinance shall be subject to the penalties and enforcement procedures set forth in Sections 21-2.150-1 and 21-2.150-2 of the Revised Ordinances of the City and County of Honolulu (1990), and any other pertinent laws.

SECTION 5. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part, or portion of this ordinance will not affect the validity of any other part of this ordinance that can be given effect without such invalid part or parts.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

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SECTION 6. This ordinance takes effect upon its approval.

INTRODUCED BY:

Carol Fukunaga
Ann Kobayashi

DATE OF INTRODUCTION:

OCT 25 2017

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu